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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,512	02/12/2001	James A. Genovese	DAM 533-00	6829

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US ARMY SOLDIER AND BIOLOGICAL CHEMICAL COMMAND
OFFICE OF THE CHIEF COUNSEL/IP TEAM (BLDG E4435)
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EXAMINER

FERRIS III, FRED O

ART UNIT PAPER NUMBER

2128

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/781,512	Applicant(s) GENOVESE, JAMES A.	
	Examiner Fred Ferris	Art Unit 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 23-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/17/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. *This office action is responsive to applicants Amendment filed 17 November 2005. Claims 1-22 are currently pending in this application. Claims 23-42 have been withdrawn.*

Election/Restrictions

2. *Applicants election without Traverse of claims 1-22 in the reply filed on 17 November 2005 is acknowledged.*

Drawings

3 *Applicant's drawings submitted 4 June 2001 have been approved by the examiner.*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over “The use of Technology in Preparing Subway Systems fro Chemical/Biological Terrorism”, Policastro et al, Sandia National Laboratory, April 1999 in view of “NIOSH-DOD-OSHA Sponsored Chemical and Biological Respiratory Protection Workshop Report”, Dower et al, US Dept. of Health and Human Services, January 2000.

Regarding independent claim 1: Policastro teaches the concept of a first responder using chemical/biological software operating on a portable computer, e.g. for acquiring observed sign and symptoms data from a user interface (See: Fig. 4, page 8).

Policastro et al does not explicitly disclose a database of known hazardous agents associated with related agent symptoms. (Although the examiner believes such features would be inherent to the chemical/biological software disclosed by Policastro et al.)

Dower et al teaches the concept of a first responder database containing of known hazardous agents associated with related agent symptoms, i.e. for performing agent identification by comparing signs and symptoms. (See: Appendix D, page 65, page 4, para:3, page 11, para:6)

It would have been obvious to one having ordinary skill in the art at the time the claimed invention was made to modify the teachings of Policastro relating to a first responder using chemical/biological software for acquiring observed sign and

symptoms, with the teachings of Dower relating to a database containing of known hazardous agents associated with related agent symptoms, to realize the elements of the claimed invention. An obvious motivation exists since, as referenced in the prior art, rapid response and computer based support tools are essential in developing response procedures and training in order to minimize casualties in the event of a chemical/biological attack. (See: Policastro/Dower, Abstract/Conclusion). Accordingly, a skilled artisan tasked with realizing a system and method for providing hazardous incident decision support and training, and having access to the teachings of Policastro and Dower, would have knowingly modified the teachings of Policastro with the teachings of Dower (or visa versa) to realize the claimed elements of the present invention.

Per claim 2: Appendix D of Dower discloses observed signs and symptoms relative to a particular agent as noted above. Assigning a unit value to the observed signs and symptoms amounts to indexing in order to find a match pointing to a particular item in the database and would have knowingly been implemented by one of ordinary skill in the art as a method of locating records. (See: "index" Microsoft Computer Dictionary 1997)

Regarding claims 3, 5: These claims include the use of "weighting" and "scoring" prior to access of records in the database and would also have knowingly been implemented by one of ordinary skill in the art in order to perform simple statistical analysis and ranking of the observed signs and symptoms relative to the stored database records. (See: Turcato et al, Section 2.2.1, for example)

Regarding claim 4: Appendix D of Dower discloses the relative time (incubation period) of observed signs and symptoms relative to a particular agent (pages 67-72).

Regarding claims 6-8: Both Policastro (pages 9, 23) and Dower (Figs. 3, 4) teach acquiring sensor data by sampling and providing responder training as noted above.

Regarding independent claims 9 and 16: Policastro teaches the concept of a first responder using chemical/biological software operating on a portable computer, e.g. for acquiring observed sign and symptoms data from a user interface representing a chemical biological "situation" (See: Figs. 1-4, page 8). Policastro further teaches that a responder's actions responsive to chemical/biological attacks are time critical (See pages 2-4 "Understanding the Problem" and "Time is Critical"). Therefore a skilled artisan would have knowingly implemented a "time-dependent" hazard assessment inclusive of and updated by "elapsed time" (i.e. total amount of time, See: Policastro page 3, para:6) Further, the recitation of a "time data from a clock" would obviously be inherent in the chemical/biological software operating on a portable computer disclosed by Policastro (Fig. 4).

Policastro et al does not explicitly disclose a database of known hazardous agents associated with related agent symptoms rendering a "situation definition". (Although the examiner believes such features would be inherent to the chemical/biological software disclosed by Policastro et al.)

Dower et al teaches the concept of a first responder database containing of known hazardous agents associated with related agent symptoms, i.e. for performing

agent identification by comparing signs and symptoms, i.e. a "situation definition". (See: Appendix D, page 65, page 4, para:3, page 11, para:6)

It would have been obvious to one having ordinary skill in the art at the time the claimed invention was made to modify the teachings of Policastro relating to a first responder using chemical/biological software for acquiring observed sign and symptoms, with the teachings of Dower relating to a database containing of known hazardous agents associated with related agent symptoms, to realize the elements of the claimed invention. An obvious motivation exists since, as referenced in the prior art, rapid response and computer based support tools are essential in developing response procedures and training in order to minimize casualties in the event of a chemical/biological attack. (See: Policastro/Dower, Abstract/Conclusion). Accordingly, a skilled artisan tasked with realizing a system and method for providing hazardous incident decision support and training, and having access to the teachings of Policastro and Dower, would have knowingly modified the teachings of Policastro with the teachings of Dower (or visa versa) to realize the claimed elements of the present invention.

Regarding dependent claims 10-15 and 17-22: *As recognized by applicants on page 25, lines 15-19 if the specification, occupational safety factors are well established (See: OSHA Emergency Response Guidebook, for example) and hence would have knowingly been incorporated by a skilled artisan using the reasoning previously set forth above. Dower also teaches safety protection factors (pages 11, 12). Policastro teaches that a responder's actions responsive to chemical/biological*

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attacks are time critical (See pages 2-4 "Understanding the Problem" and "Time is Critical") and, again, would have knowingly been incorporated by a skilled artisan as noted above. Dower et al teaches a first responder database containing of known hazardous agents associated with related agent symptoms, i.e. for performing agent identification by comparing signs and symptoms and would further have been knowingly incorporated by a skilled artisan using the reasoning cited above.

Conclusion

5. *The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.*

"Emergency response training: strategies for enhancing real-world performance", Ford et al, Journal of Hazardous Materials 75 (2000) 195-215, 2000 Elsevier Science teaches emergency response training.

"Adapting to User Preferences in Crisis Response", Iba et al, IUI 99' ACM 1999 teaches emergency and crisis response training and simulation.

"Adapting a synonym database to specific domains", Turcato et al, Simon Fraser University, August 2002 teaches statistical databases.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Ferris whose telephone number is 571-272-3778 and whose normal working hours are 8:30am to 5:00pm Monday to Friday. Any inquiry of a general nature relating to the status of this application should be directed to the group receptionist whose telephone number is 571-272-3700. If attempts to reach the

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examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached at 571-272-2279. The Official Fax Number is: (703) 872-9306

Fred Ferris, Patent Examiner
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